



BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER

IN THE MATTER OF THE APPLICATION OF  
ONE POINT SERVICES, L.L.C. FOR A  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE COMPETITIVE  
RESOLD INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES EXCEPT  
LOCAL EXCHANGE SERVICES

DOCKET NO. T-03855A-00-0170

DECISION NO. 63532

**ORDER** Arizona Corporation Commission  
**DOCKETED**

Open Meeting  
March 27 and 28, 2001  
Phoenix, Arizona

MAR 30 2001

DOCKETED BY

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**BY THE COMMISSION:**

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On March 14, 2000, OnePoint Services, L.L.C. (OnePoint" or "Applicant") filed with the Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide competitive resold interexchange telecommunications services, except local exchange services, within the State of Arizona.

2. In Decision No. 58926 (December 22, 1994), the Commission found that resold telecommunications providers ("resellers") were public service corporations subject to the jurisdiction of the Commission.

3. Applicant is a Delaware limited liability company authorized to do business in Arizona since 2000.

4. Applicant is a switchless reseller, which purchases telecommunications services from various telecommunications service providers.

5. On August 8, 2000, Applicant filed Affidavits of Publication indicating compliance with the Commission's notice requirements.

1           6.     On January 9, 2001, the Commission's Utilities Division Staff ("Staff") filed its Staff  
2 Report in this matter.

3           7.     Staff stated that the Applicant provided its audited financial statements for the year  
4 ending December 31, 1999. These financial statements listed assets of \$81.4 million, negative  
5 shareholders' equity of \$90.2 million, and a net loss of \$52.7 million. Based on the foregoing, Staff  
6 believes that Applicant lacks adequate financial resources to be allowed to charge customers any  
7 prepayments, advances or deposits without establishing an escrow account or posting a surety bond.

8           8.     The Staff Report stated that Applicant has no market power and the reasonableness of  
9 its rates would be evaluated in a market with numerous competitors.

10          9.     In its Report, Staff recommended the following:

11           (a)    Applicant should be ordered to comply with all Commission rules, orders and  
12 other requirements relevant to the provision of intrastate telecommunications services;

13           (b)    Applicant should be ordered to maintain its accounts and records as required  
14 by the Commission;

15           (c)    Applicant should be ordered to file with the Commission all financial and other  
16 reports that the Commission may require, and in a form and at such times as the  
Commission may designate;

17           (d)    Applicant should be ordered to maintain on file with the Commission all  
18 current tariffs and rates, and any service standards that the Commission may require;

19           (e)    Applicant should be ordered to comply with the Commission's rules and  
20 modify its tariffs to conform to these rules if it is determined that there is a conflict  
between the Applicant's tariffs and the Commission's rules;

21           (f)    Applicant should be ordered to cooperate with Commission investigations of  
22 customer complaints;

23           (g)    Applicant should be ordered to participate in and contribute to a universal  
24 service fund, as required by the Commission;

25           (h)    Applicant should be ordered to notify the Commission immediately upon  
26 changes to the Applicant's address or telephone number;

27           (i)    Applicant should file a surety bond to cover the approximate total amount of  
28 any prepayments, advances, and deposits that the applicant will collect from its  
customers;

1 (j) After one year of operation under the Certificate granted by the Commission,  
2 the Applicant should be allowed to file a request for cancellation of its established  
3 surety bond, and that such request be accompanied by information demonstrating the  
Applicant's financial viability. Upon receipt of such filing and after Staff review, Staff  
would forward its recommendation to the Commission for a Decision;

4 (k) Applicant's intrastate interexchange service offerings should be classified as  
5 competitive pursuant to A.A.C. R14-2-1108;

6 (l) The rates proposed by the Applicant in its most recently filed tariffs should be  
7 approved on an interim basis. The maximum rates for these services should be the  
8 maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates  
9 for the Applicant's competitive services should be the Applicant's total service long  
run incremental costs of providing those services as set forth in A.A.C. R14-2-1109;  
and

10 (m) In the event that the Applicant states only one rate in its proposed tariff for a  
11 competitive service, the rate stated should be the effective (actual) price to be charged  
for the service as well as the service's maximum rate.

12 10. Staff recommended approval of the application subject to the following conditions:

13 (a) Applicant should be ordered to file conforming tariffs within 30 days of an  
14 Order in this matter, and in accordance with the Decision;

15 (b) Applicant should be required to file in this Docket, within 18 months of the  
16 date it first provides service following certification, sufficient information for Staff  
17 analysis and recommendation for a fair value finding, as well as for an analysis and  
recommendation for permanent tariff approval. This information must include, at a  
minimum, the following:

18 1. A dollar amount representing the total revenue for the first twelve  
19 months of telecommunications service provided to Arizona customers by the  
20 Applicant following certification, adjusted to reflect the maximum rates that  
21 the Applicant has requested in its tariff. This adjusted total revenue figure  
could be calculated as the number of units sold for all services offered times  
the maximum charge per unit.

22 2. The total actual operating expenses for the first twelve months of  
23 telecommunications service provided to Arizona customers by the Applicant  
24 following certification.

25 3. The value of all assets, listed by major category, used for the first  
26 twelve months of telecommunications service provided to Arizona customers  
27 by the Applicant following certification. Assets are not limited to plant and  
equipment. Items such as office equipment and office supplies should be  
28 included in this list.

1 (c) Applicant's failure to meet the condition to file sufficient information for a fair  
2 value finding and analysis and recommendation of permanent tariffs shall result in the  
3 expiration of the certificate of the tariffs.

4 11. On August 29, 2000, the Court of Appeals, Division One ("Court") issued its Opinion  
5 in US WEST Communications, Inc. v. Arizona Corporation Commission, 1 CA-CV 98-0672, holding  
6 that "the Arizona Constitution requires the Commission to determine fair value rate base ("FVRB")  
7 for all public service corporations in Arizona prior to setting their rates and charges."

8 12. On October 26, 2000, the Commission filed a Petition for Review to the Arizona  
9 Supreme Court. On February 13, 2001, the Commission's Petition was granted. However, at this  
10 time, we are going to request FVRB information to insure compliance with the Constitution should  
11 the ultimate decision of the Supreme Court affirm the Court's interpretation of Section 14. We are  
12 also concerned that the cost and complexity of FVRB determinations must not offend the  
13 Telecommunications Act of 1996.

14 13. No exceptions were filed to the Staff Report, nor did any party request that a hearing  
15 be held.

#### 16 CONCLUSIONS OF LAW

17 1. Applicant is a public service corporation within the meaning of Article XV of the  
18 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

19 2. The Commission has jurisdiction over Applicant and the subject matter of the  
20 application.

21 3. Notice of the application was given in accordance with the law.

22 4. Applicant's provision of resold intrastate telecommunications services is in the public  
23 interest.

24 5. Applicant is a fit and proper entity to receive a Certificate for providing competitive  
25 intrastate telecommunications as a reseller in Arizona.

26 6. Staff's recommendations in Findings of Fact Nos. 9 and 10 are reasonable and should  
27 be adopted.

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ORDER

IT IS THEREFORE ORDERED that the application for OnePoint Services, L.L.C. for a Certificate of Convenience and Necessity for authority to provide competitive resold interexchange telecommunications services, except local exchange services, shall be and the same is hereby granted.

IT IS FURTHER ORDERED that OnePoint Services, L.L.C. shall comply with the Staff recommendations set forth in Findings of Fact Nos. 9 and 10.

IT IS FURTHER ORDERED that OnePoint Services, L.L.C. shall file the following FVRB information within 18 months of the date that it first provides service. The FVRB shall include a dollar amount representing the total revenue for the first twelve months of telecommunications service provided to Arizona customers OnePoint Services, L.L.C. following certification, adjusted to reflect the maximum rates that OnePoint Services, L.L.C. requests in its tariff. This adjusted total revenue figure could be calculated as the number of units sold for all services offered times the maximum charge per unit OnePoint Services, L.L.C. shall also file FVRB information detailing the total actual operating expenses for the first twelve months of telecommunications service provided to Arizona customers OnePoint Services, L.L.C. following certification. OnePoint Services, L.L.C. shall also file FVRB information which includes a description and value of all assets, including plant, equipment, and office supplies, to be used to provide telecommunications service to Arizona customers for the first twelve months following OnePoint Services, L.L.C.'s certification.

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IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision, OnePoint Services, L.L.C. shall file proof of surety bond and notify the Compliance Section of the Arizona Corporation Commission of the date that it will begin or has begun providing service to Arizona customers.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.



CHAIRMAN

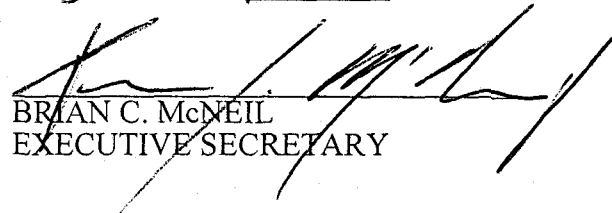


COMMISSIONER



COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 3<sup>rd</sup> day of March, 2001.



BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_  
AG:dp

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